IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4217 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMUBEN KARSANBHAI

Versus

VACHANI OIL MILL

Appearance:

1. Special Civil Application No. 4217 of 2002

MR KISHOR M PAUL for Petitioner No. 1-1/3

MR NIRAV C THAKKAR for Respondent No. 1

MR AD OZA G.P. for Respondent No. 2

CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 16/08/2002

ORAL JUDGEMENT

Rule. Learned counsels for the respondents waive service of rule. At their request matter has been taken up for final disposal today.

2. This petition has been filed by the petitioner for issuance of appropriate direction by this Court on respondent no.2 to effect the recovery of the backwages and the cost awarded by the Labour Court in favour of the petitioners in Reference (L.C.J.) No. 310/1990 which was filed against present respondent no.1. After issuance of notice in this petition, respondent no.2 has recovered the said amount by way of revenue arrears from respondent no.1 and the said amount has been deposited before the Labour Court, Jamnagar on 8th August, 2001 as can be seen from affidavit filed by Mr. M.K. Das, Collector, Surat dated 13th August, 2002. In view thereof, reliefs claimed by the petitioners in this petition stand satisfied.

3. Mr.Nirav C. Thakkar learned counsel appearing for respondent no.1 states that the petitioners have suppressed certain material facts before this Court in the petition and on that ground alone this petition deserves to be dismissed. He has drawn my attention to the fact that Misc. Application no.15/1999 in Reference no.310/1990 has been filed by respondent no.1 to get the ex-parte award passed, against respondent no.1 dated 28th May, 1997, set-aside and decide the case on its merits. After hearing both the parties, the fact regarding pendency of the Misc. Application has not been made in this petition.

4. Since the grievance of the petitioner in this petition is over inasmuch as the amount has been recovered from respondent no.1 and deposited with the Labour Court, Jamnagar, this petition is, therefore, required to be allowed. However, the Labour Court is directed that the Misc. Application no.15/1999 pending before it be decided by it on or before 30th September, 2002 in accordance with the facts and circumstances of the record and in accordance with the provisions of relevant law. The Labour Court is also directed not to permit the present petitioner to withdraw the said amount till the decision of Misc. Application no.15/1999 is taken. The Labour Court is also directed that further order with regard to the withdrawal of the said amount be passed only after taking into consideration the outcome of the Misc. Application no.15/1999.

With this direction the petition stands partly allowed. Rule is made absolute to the aforesaid extent.

Direct Service to respondent no.1 is permitted.

[AKSHAY H. MEHTA, J.]

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